

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JULIANA VELAZQUEZ,

Plaintiff,

-against-

ANSWER

CITY OF NEW YORK, RAYMOND KELLY,
POLICE COMMISSIONER OF THE NEW YORK
CITY POLICE DEPARTMENT, LT. THOMAS
HARTIGAN and SGT, CHARLES ROMERO, sued
in their individual and professional capacities,

08 CV 2159 (BSJ)

Defendants.

-----X
Defendants, City of New York, Raymond Kelly, Police Commissioner of the New York City Police Department and Sgt. Charles Romero, in his individual and professional capacity ("City defendants"), by their attorney, **MICHAEL A. CARDOZO**, Corporation Counsel of the City of New York, as and for their answer to the Complaint, respectfully allege as follows:

1. Deny the allegations set forth in Paragraph "1" of the Complaint except admit that plaintiff purports to set forth a basis for the action.
2. Deny the allegations set forth in Paragraphs "2, 3, 4, and 5" of the Complaint except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
3. Deny the allegations set forth in Paragraph "6" of the Complaint except admit that plaintiff filed a charge with the Equal Employment Opportunity Commission ("EEOC") on or about February 14, 2007.
4. Deny the allegations set forth in Paragraph "7" of the Complaint except admit that plaintiff purports to set forth a basis for the action.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "8" of the Complaint except admit that the EEOC issued a "Right to Sue" Letter on November 20, 2007.

6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "9" of the Complaint.

7. Deny the allegations set forth in Paragraph "10" of the Complaint except admit that plaintiff purports to set forth the basis of venue.

8. Deny the allegations set forth in Paragraph "11" of the Complaint except admit that plaintiff was a probationary police officer with the New York City Police Department ("NYPD").

9. Deny the allegations set forth in Paragraph "12" of the Complaint except admit that the City of New York ("City") is a municipal corporation organized and existing under the Constitution and laws of the State of New York and respectfully refer the Court to New York City Administrative Code §14-101 et. seq. for a complete and accurate statement of the powers and duties of the NYPD.

10. Deny the allegations set forth in Paragraph "13" of the Complaint except admit that defendant Raymond Kelly has been the Police Commissioner of the NYPD since in or about January 2002 and that plaintiff purports to proceed as set forth therein.

11. Deny the allegations set forth in Paragraph "14" of the Complaint except admit that defendant Thomas Hartigan was a Lieutenant in the NYPD.

12. Deny the allegations set forth in Paragraph "15" of the Complaint except admit that defendant Charles Romero is a Sergeant in the NYPD and that plaintiff purports to proceed as set forth therein.

13. Deny the allegations set forth in Paragraph "16" of the Complaint except admit that plaintiff Juliana Velazquez was appointed to the title of police officer in the NYPD, subject to the satisfactory completion of a probationary period, and admit that plaintiff was assigned to PSA5 Command.

14. Deny the truth of the allegations set forth in Paragraph "17" of the Complaint.

15. Deny the truth of the allegations set forth in Paragraph "18" of the Complaint.

16. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "19" of the Complaint.

17. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "20" of the Complaint.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "21" of the Complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "22" of the Complaint.

20. Deny the allegations set forth in Paragraph "23" of the Complaint.

21. Deny the truth of the allegations set forth in Paragraph "24" of the Complaint.

22. Deny the truth of the allegations set forth in Paragraph "25" of the Complaint.

23. Deny the truth of the allegations set forth in Paragraph "26" of the Complaint.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "27" of the Complaint.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "28" of the Complaint.

26. Deny the allegations set forth in Paragraph "29" of the Complaint except admit that plaintiff was suspended for refusing to obey a lawful order.

27. Deny the allegations set forth in Paragraph "30" of the Complaint.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "31" of the Complaint.

29. Deny the truth of the allegations set forth in Paragraph "32" of the Complaint.

30. Deny the allegations set forth in Paragraph "33" of the Complaint except admit that plaintiff and defendant Sgt. Charles Romero had a personal relationship.

31. Deny the allegations set forth in Paragraph "34" of the Complaint.

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "35" of the Complaint except admit Sgt. Romero was transferred.

33. Deny the allegations set forth in Paragraph "36" of the Complaint except admit plaintiff was suspended on or about September 1, 2007.

34. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "37" of the Complaint.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "38" of the Complaint.

36. Deny the allegations set forth in Paragraph "39" of the Complaint.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "40" of the Complaint.

38. Deny the allegations set forth in Paragraph "41" of the Complaint except admit that plaintiff was terminated from the NYPD in or about September 26, 2007.

39. Deny the allegations set forth in Paragraph "42" of the Complaint regarding Sgt Romero's conduct and otherwise deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph "42" of the Complaint.

40. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "43" of the Complaint except admit Sgt. Romero made a harassment complaint with the Yonkers Police Department on or about October 31, 2007.

41. Deny the allegations set forth in Paragraph "44" of the Complaint.

42. Deny the allegations set forth in Paragraph "45" of the Complaint.

43. Deny the allegations set forth in Paragraph "46" of the Complaint.

44. Deny the allegations set forth in Paragraph "47" of the Complaint.

45. In response to paragraph "48" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "47" of the Complaint, as if fully set forth here.

46. Deny the allegations set forth in Paragraph "49" of the Complaint.

47. Deny the allegations set forth in Paragraph "50" of the Complaint.

48. Deny the allegations set forth in Paragraph "51" of the Complaint.

49. Deny the allegations set forth in Paragraph "52" of the Complaint.

50. In response to paragraph "53" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "52" of the Complaint, as if fully set forth here.

51. Deny the allegations set forth in Paragraph "54" of the Complaint.

52. Deny the allegations set forth in Paragraph "55" of the Complaint.

53. Deny the allegations set forth in Paragraph "56" of the Complaint.

54. Deny the allegations set forth in Paragraph "57" of the Complaint.

55. Deny the allegations set forth in Paragraph "58" of the Complaint.

56. In response to paragraph "59" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "58" of the Complaint, as if fully set forth here.

57. Deny the allegations set forth in Paragraph "60" of the Complaint.

58. Deny the allegations set forth in Paragraph "61" of the Complaint.

59. Deny the allegations set forth in Paragraph "62" of the Complaint.

60. Deny the allegations set forth in Paragraph "63" of the Complaint.

61. Deny the allegations set forth in Paragraph "64" of the Complaint.

62. In response to paragraph "65" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "64" of the Complaint, as if fully set forth here.

63. Deny the allegations set forth in Paragraph "66" of the Complaint.

64. Deny the allegations set forth in Paragraph "67" of the Complaint.

65. Deny the allegations set forth in Paragraph "68" of the Complaint.

66. Deny the allegations set forth in Paragraph "69" of the Complaint.

67. Deny the allegations set forth in Paragraph "70" of the Complaint.

68. In response to paragraph "71" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "70" of the Complaint, as if fully set forth here.

69. Deny the allegations set forth in Paragraph "72" of the Complaint.

70. Deny the allegations set forth in Paragraph "73" of the Complaint.

71. Deny the allegations set forth in Paragraph "74" of the Complaint.

72. Deny the allegations set forth in Paragraph "75" of the Complaint.

73. Deny the allegations set forth in Paragraph "76" of the Complaint.

74. In response to paragraph "77" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "76" of the Complaint, as if fully set forth here.

75. Deny the allegations set forth in Paragraph "78" of the Complaint.

76. Deny the allegations set forth in Paragraph "79" of the Complaint.

77. Deny the allegations set forth in Paragraph "80" of the Complaint.

78. Deny the allegations set forth in Paragraph "81" of the Complaint.

79. Deny the allegations set forth in Paragraph "82" of the Complaint.

80. Deny the allegations set forth in Paragraph "83" of the Complaint.

81. In response to paragraph "84" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "83" of the Complaint, as if fully set forth here.

82. Deny the allegations set forth in Paragraph "85" of the Complaint.

83. Deny the allegations set forth in Paragraph "86" of the Complaint.

84. Deny the allegations set forth in Paragraph "87" of the Complaint.

85. Deny the allegations set forth in Paragraph "88" of the Complaint.

86. Deny the allegations set forth in Paragraph "89" of the Complaint.

87. In response to paragraph "90" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "89" of the Complaint, as if fully set forth here.

88. Deny the allegations set forth in Paragraph "91" of the Complaint.

89. Deny the allegations set forth in Paragraph "92" of the Complaint.

90. Deny the allegations set forth in Paragraph "93" of the Complaint.

91. Deny the allegations set forth in Paragraph “94” of the Complaint.

92. In response to paragraph “95” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “94” of the Complaint, as if fully set forth here.

93. Deny the allegations set forth in Paragraph “96” of the Complaint.

94. Deny the allegations set forth in Paragraph “97” of the Complaint.

95. Deny the allegations set forth in Paragraph “98” of the Complaint.

96. Deny the allegations set forth in Paragraph “99” of the Complaint.

97. Deny the allegations set forth in Paragraph “100” of the Complaint.

98. In response to paragraph “101” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “100” of the Complaint, as if fully set forth here.

99. Deny the allegations set forth in Paragraph “102” of the Complaint.

100. Deny the allegations set forth in Paragraph “103” of the Complaint.

101. Deny the allegations set forth in Paragraph “104” of the Complaint.

102. Deny the allegations set forth in Paragraph “105” of the Complaint.

103. Deny the allegations set forth in Paragraph “106” of the Complaint.

104. In response to paragraph “107” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “106” of the Complaint, as if fully set forth here.

105. Deny the allegations set forth in Paragraph “108” of the Complaint.

106. Deny the allegations set forth in Paragraph “109” of the Complaint.

107. Deny the allegations set forth in Paragraph “110” of the Complaint.

108. Deny the allegations set forth in Paragraph “111” of the Complaint.

109. Deny the allegations set forth in Paragraph “112” of the Complaint.

110. Deny the allegations set forth in Paragraph “113” of the Complaint.

111. In response to paragraph "114" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "113" of the Complaint, as if fully set forth here.

112. Deny the allegations set forth in Paragraph "115" of the Complaint.

113. Deny the allegations set forth in Paragraph "116" of the Complaint.

114. Deny the allegations set forth in Paragraph "117" of the Complaint.

115. Deny the allegations set forth in Paragraph "118" of the Complaint.

116. Deny the allegations set forth in Paragraph "119" of the Complaint.

117. In response to paragraph "120" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "119" of the Complaint, as if fully set forth here.

118. Deny the allegations set forth in Paragraph "121" of the Complaint.

119. Deny the allegations set forth in Paragraph "122" of the Complaint.

120. Deny the allegations set forth in Paragraph "123" of the Complaint.

121. Deny the allegations set forth in Paragraph "124" of the Complaint.

122. Deny the allegations set forth in Paragraph "125" of the Complaint.

123. In response to paragraph "126" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "125" of the Complaint, as if fully set forth here.

124. Deny the allegations set forth in Paragraph "127" of the Complaint.

125. Deny the allegations set forth in Paragraph "128" of the Complaint.

126. Deny the allegations set forth in Paragraph "129" of the Complaint.

127. Deny the allegations set forth in Paragraph "130" of the Complaint.

128. Deny the allegations set forth in Paragraph "131" of the Complaint.

129. In response to paragraph "132" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "131" of the Complaint, as if fully set forth here.

130. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "133" of the Complaint.

131. Deny the allegations set forth in Paragraph "134" of the Complaint.

132. In response to paragraph "135" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "134" of the Complaint, as if fully set forth here.

133. Deny the allegations set forth in Paragraph "136" of the Complaint.

134. Deny the allegations set forth in Paragraph "137" of the Complaint.

135. In response to paragraph "138" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "137" of the Complaint, as if fully set forth here.

136. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "139" of the Complaint.

137. Deny the allegations set forth in Paragraph "140" of the Complaint.

138. In response to paragraph "141" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "140" of the Complaint, as if fully set forth here.

139. Deny the allegations set forth in Paragraph "142" of the Complaint.

140. Deny the allegations set forth in Paragraph "143" of the Complaint.

141. In response to paragraph "144" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "143" of the Complaint, as if fully set forth here.

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "145" of the Complaint.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "146" of the Complaint.

144. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "147" of the Complaint.

145. Deny the allegations set forth in Paragraph "148" of the Complaint.

146. In response to paragraph "149" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "148" of the Complaint, as if fully set forth here.

147. Deny the allegations set forth in Paragraph "150" of the Complaint.

148. Deny the allegations set forth in Paragraph "150" of the Complaint.

149. Deny the allegations set forth in Paragraph "152" of the Complaint.

150. Deny the allegations set forth in Paragraph "153" of the Complaint.

151. In response to paragraph "154" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "153" of the Complaint, as if fully set forth here.

152. Deny the allegations set forth in Paragraph "155" of the Complaint.

153. Deny the allegations set forth in Paragraph "154" of the Complaint.

154. Deny the allegations set forth in Paragraph "156" of the Complaint.

155. Deny the allegations set forth in Paragraph "157" of the Complaint.

156. Deny the allegations set forth in Paragraph "158" of the Complaint.

157. In response to paragraph "159" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "158" of the Complaint, as if fully set forth here.

158. Deny the allegations set forth in Paragraph "160" of the Complaint.

159. Deny the allegations set forth in Paragraph "161" of the Complaint.

160. Deny the allegations set forth in Paragraph "162" of the Complaint.

161. Deny the allegations set forth in Paragraph "163" of the Complaint.

162. Deny the allegations set forth in Paragraph "164" of the Complaint.

163. Deny the allegations set forth in Paragraph “165” of the Complaint.

164. In response to paragraph “166” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “165” of the Complaint, as if fully set forth here.

165. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “167” of the Complaint.

166. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “168” of the Complaint.

167. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “169” of the Complaint.

168. Deny the allegations set forth in Paragraph “170” of the Complaint.

169. In response to paragraph “171” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “170” of the Complaint, as if fully set forth here.

170. Deny the allegations set forth in Paragraph “172” of the Complaint.

171. Deny the allegations set forth in Paragraph “173” of the Complaint.

172. Deny the allegations set forth in Paragraph “174” of the Complaint.

173. Deny the allegations set forth in Paragraph “175” of the Complaint.

174. In response to paragraph “176” of Complaint defendants repeat and re-allege their responses to Paragraphs “1” through “175” of the Complaint, as if fully set forth here.

175. Deny the allegations set forth in Paragraph “177” of the Complaint.

176. Deny the allegations set forth in Paragraph “178” of the Complaint.

177. Deny the allegations set forth in Paragraph “179” of the Complaint.

AS AND FOR A FIRST DEFENSE

178. The Complaint fails to state any claim upon which relief may be granted.

AS AND FOR A SECOND DEFENSE

179. The individual defendants are shielded from suit by the doctrines of absolute immunity, qualified immunity, common law immunity, judicial immunity, or any combination of these doctrines.

AS AND FOR A THIRD DEFENSE

180. Petitioner has not satisfied all conditions precedent to suit.

AS AND FOR A FOURTH DEFENSE

181. At all times relevant to the acts alleged in the Complaint, City defendants' conduct was reasonable, proper, lawful, constitutional, made in good faith for nondiscriminatory, non-retaliatory, legitimate, business reasons, and without malice and/or without willful intent to violate any applicable law, rule or regulation.

AS AND FOR A FIFTH DEFENSE

182. Plaintiff unreasonably failed to take advantage of preventative or corrective opportunities provided by the City to its employees or to otherwise avoid harm.

AS AND FOR A SIXTH DEFENSE

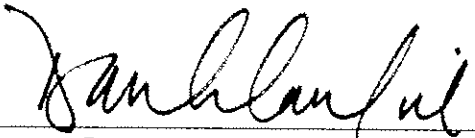
183. The City of New York is not liable under cases such as Faragher v. Boca Raton, 524 U.S. 775 (1998) and Burlington Industries v. Ellerth, 524 U.S. 742, 754 (1998).

CONCLUSION

WHEREFORE, City defendants respectfully request that the Complaint be dismissed in its entirety, that the court enter judgment for defendants, and that defendants be granted costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 27, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for City Defendants
100 Church Street, Room 2-107
New York, N.Y. 10007-2601
212-788-8703

By: 
Donna A. Canfield (DC2430)
Assistant Corporation Counsel

To: CRONIN & BYCZEK, LLP
Attorney(s) for Plaintiff
1983 Marcus Avenue
Suite C-120
Lake Success, New York 11042
Att: Linda Cronin

CERTIFICATE OF SERVICE

I, Donna A. Canfield, hereby certify that on this date, I caused a copy of the foregoing Defendants' Answer to Plaintiff's Complaint to be served upon plaintiffs by placing a copy in a pre-addressed, stamped envelope directed to:

CRONIN & BYCZEK, LLP
Attorney(s) for Plaintiff
1983 Marcus Avenue
Suite C-120
Lake Success, New York 11042
Att: Linda Cronin

that being the address designated by plaintiff for such service, and placing that envelope in a depository under the exclusive care and control of the United States Postal Service.

Dated: New York, New York
May 27, 2008


Donna A. Canfield

08 CV 2159 (BSJ)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JULIANA VELAZQUEZ,

Plaintiff,

-against-

CITY OF NEW YORK, RAYMOND KELLY, POLICE
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POLICE DEPARTMENT, LT. THOMAS HARTIGAN
and SGT, CHARLES ROMERO, sued in their individual
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Defendants

ANSWER

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street, Room 2-107
New York, New York 10007-2601

Of Counsel: Donna A. Canfield
Tel.: 212-788-8703

LM No.: 2008-007920

Service of which is hereby acknowledged:

....., N.Y. Dated:

Signed:

Print Name:

Attorney for: